



Atty. Docket: ITW-14146

THE UNITED STATES PATENT & TRADEMARK OFFICE

In re Application of:

Jimmy Lee Long : Group Art Unit: 3721

Serial No.: 10/612,481 : Examiner: Harmon, C.R.

Filed: July 1, 2003

Title: PNEUMATIC ROLLER FOR PASSING FILM
WITH ATTACHMENTS THROUGH ROLLERS
OF MACHINE

Hon. Commissioner for Patents
Alexandria, VA 22313

PRE-APPEAL BRIEF REQUEST FOR REVIEW

In accordance with the OG Notice of July 12, 2005, the Applicant hereby requests review of the Final Rejection mailed on June 7, 2007. A Notice of Appeal and a Petition Requesting One-Month Extension of Time are being filed concurrently herewith.

In ¶ 2 of the Final Rejection, claims 2-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence (US 5,275,208) in view of Edwards (US 2,647,014). Claims 14-21 were allowed. The Applicant believes that the rejection of claims 2-11 is erroneous for the following reasons.

Rejected claims 2-6 and 8-11 depend from rejected independent claim 7. Claim 7 reads as follows:

An assembly comprising:

a generally circular cylindrical tube made of resilient material, said tube forming an airtight outer circumferential boundary of a chamber;

first and second end cap assemblies supporting said tube at opposite ends thereof and forming

respective end boundaries of said chamber; and

a fixed structure that supports said first and second end cap assemblies, said first and second end cap assemblies being rotatable relative to said fixed structure, wherein said fixed structure comprises a passageway that is in fluid communication with said chamber,

wherein said tube comprises a multiplicity of annular transverse cuts extending from an inner peripheral surface of said tube toward, but not reaching, an outer peripheral surface of said tube, each pair of adjacent annular transverse cuts bounding a respective annular ring section in an inner peripheral portion of said tube, each of said annular ring sections being integrally formed with an uncut outer peripheral portion of said tube, said annular ring sections and said uncut outer peripheral portion being made of said resilient material.

(Emphases added.) Thus claim 7 recites a tube having annular transverse cuts extending outwardly from an inner periphery.

The Lawrence patent was cited by the Examiner for teaching a tube 21 having annular transverse cuts extending outwardly from an inner periphery. This is a mistaken interpretation of the Lawrence disclosure. The inner corrugated hose 21 of Lawrence is not a tube. The Academic Press Dictionary of Science and Technology, Academic Press, Inc., 1992, defines "tube" as "a hollow cylindrical body or passage" (see p. 2274). That same dictionary further defines "cylinder" as "a closed surface consisting of two parallel bases that are bounded by simple closed curves and a lateral surface consisting of all line segments joining corresponding

points on the boundaries of the bases" (see p. 576). The inner corrugated hose 21 of Lawrence cannot meet this definition and thus is not a cylinder. Since inner corrugated hose 21 of Lawrence is not a cylinder, it also cannot be a tube. Thus, the Applicant respectfully submits that the Examiner has not given the proper meaning to the term "tube" in claim 7.

The aforementioned obviousness rejection is further flawed in its reliance on Edwards as teaching first and second end cap assemblies supported by a fixed structure. Edwards discloses a nozzle designed to be attached to one end of a hose. The Examiner has taken Official Notice of the fact that it is known to connect the other end of a hose to a faucet. However, to the extent that the term "first and second end cap assemblies" can be read on a nozzle and a faucet, there is no fixed structure for supporting the nozzle and the faucet, as required by Applicants' claim limitation "a fixed structure that supports said first and second end cap assemblies." The Examiner incorrectly states that the outer tube 28 of Lawrence and the end couplers (i.e., nozzle and faucet) form a "fixed structure." More precisely, the action (at p. 2) states:

A fixed structure comprised of outer tube 28 and end couplers form a passageway in fluid communication with the chamber running the length of the hose.

This sentence is nonsensical. The inner corrugated hose 21 of Lawrence is surrounded by the outer layer 28, i.e., to the extent that outer layer 28 forms a passageway, inner corrugated hose 21 lies entirely within that passageway. Thus

the so-called "chamber" of inner corrugated hose 21 is disposed within the passageway of outer tube 28. In other words, they have space in common and that common space is occupied by fluid. There is no fluid communication between the passageway and the chamber because, at least within their common space, they are one and the same. Fluid does not flow from one to the other, but rather, to the extent that the chamber of inner corrugated hose 21 is filled with fluid, that fluid already lies within the passageway of outer tube 28. Thus, outer tube 28 of Lawrence does not constitute part of a fixed structure that has "a passageway in fluid communication with said chamber", as recited in Applicant's claim 7.

Since the Examiner relied on Lawrence, not Edwards, as teaching a tube, and since Lawrence does not teach a tube, and since Edwards does not teach a fixed structure supporting end cap assemblies, the combined references fail to teach all of the limitations recited in Applicant's claim 7. Accordingly, the Applicant respectfully submits that a *prima facie* case for obviousness has not been made and the obviousness rejection based on Lawrence and Edwards should be withdrawn.

In ¶ 3 of the action, claim 11 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lawrence in view of Edwards and further in view of Dunwoody (US 4,649,954). The Applicant traverses this ground of rejection for the same reasons, set forth above, that claim 7 is not obvious over Lawrence in view of Edwards, and for the following additional reasons.

Atty. Docket: ITW-14146

Applicant's claim 11 recites a resilient tube and a hard roller forming a nip. The Examiner proposes that the reel of Dunwoody could be combined with the hose of Lawrence to form a nip. This is mistaken. The hose of Lawrence would obviously be wound on the reel of Dunwoody. The result would not be a "nip" as the latter term is used in the claims. As is well known in the art and as shown in Applicant's Figure 5, the nip is formed by two rollers having mutually parallel axes of rotation. If the hose of Lawrence were wound around the reel of Dunwoody, they would not form a nip.

In view of the foregoing, Applicant submits that claims 2-11 are patentable over the combination of prior art cited by the Examiner. Accordingly, it is respectfully requested that the Final Rejection be overturned and that this application be allowed.

Respectfully submitted,

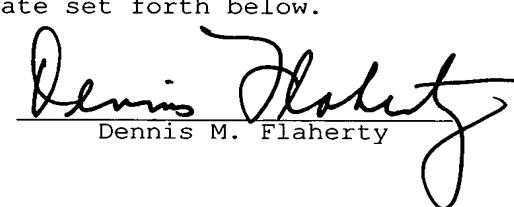
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Date


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